

Docket No.: 03485.P003



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Patent

2600/2635, \$1  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ) Examiner: Not yet assigned  
 )  
 Robert David Graham ) Art Unit: Not yet assigned  
 )  
 Application No.: 09/874,574 )  
 )  
 Filing Date: June 4, 2001 )  
 )  
 For: A System And Method For  
Preventing Network Misuse )

Commissioner for Patents  
Washington, D.C. 20231

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AMENDMENT AND PETITION UNDER 37 C.F.R./1.48(a)  
TO CORRECT INVENTORSHIP

Dear Sir:

The undersigned hereby respectfully requests and petitions that the above-referenced application be amended under 37 C.F.R./1.48(a) to correct inventorship of the application.

The application was filed on June 4, 2001 naming the following person as sole inventor of the present patent application:

Robert David Graham, 350 Sharon Park Drive #H303, Menlo Park, California 94025.

Please correct and amend the present patent application so Peter Kavaler, a citizen of the United States of America and having a residence address of 18679 West Cavendish Drive, Castro Valley, CA 94552 is additionally named as a joint inventor, so that Robert David Graham and Peter Kavaler are then named as joint inventors of the present patent application.

It is respectfully submitted that the error in inventorship of the present application was made without any deceptive intent by anyone, including the actual inventors.

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Enclosed with this Amendment and Petition is as follows:

- (1) verified Statement of Facts by Peter Kavaler stating that the error in inventorship of the present patent application was made without any deceptive intent by anyone.
- (2) an executed Declaration/Power of Attorney indicating all inventors;
- (3) an Assent of Assignee for Correction of Inventorship with a copy of the previously recorded Assignment document; and
- (4) an Assignment by the additional inventor, Peter Kavaler, to be recorded in accordance with 47 C.F.R./1.331. Please find enclosed a check in the amount of \$40.00 to cover the recordation fee required by 37 C.F.R./1.21(h).

Also enclosed is a check in the amount of \$130.00 in payment of the fee under C.F.R. 1.17(i) for correction of inventorship.

Respectfully submitted,

Blakely, Sokoloff, Taylor & Zafman LLP



Thomas C. Webster

Reg. No.: 46,154

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, CA 90025  
(408)720-8300

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

on July 18, 2001 Date of Deposit  
Janece Shannon Name of Person Mailing Correspondence  
Janece Shannon 7-18-01 Date  
Signature



Docket No. 08845P0005

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Commissioner for Patents  
Washington, D.C. 20231

STATEMENT OF FACTS BY  
Peter Kavaler  
UNDER 37 C.F.R./1.48(a)

Dear Sir:

I hereby declare:

1. I am making this Statement of Facts under 37 C.F.R./1.48(a) in connection with U.S. Patent Application Serial No.: 09/874,574 filed June 4, 2001 (hereinafter referred to as "the present patent application").

2. I am a citizen of the United States and currently reside at the following address:

Peter Kavaler  
18679 West Cavendish Drive  
Castro Valley, CA 94552

3. The error was made by naming Robert David Graham as the sole inventor, rather than naming Robert David Graham and Peter Kavaler as joint inventors.

4. The inventorship error was made without any deceptive intent whatsoever by anyone.

5. It is now requested that the additional inventor, Peter Kavaler, be added to the present patent application.

I declare that all statements made herein or my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: June 26, 2001

  
Peter Kavaler



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ) Examiner: Not yet assigned  
Robert David Graham ) Art Unit: Not yet assigned  
Application No.: 09/874,574 )  
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Washington, D.C. 20231

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ASSENT OF ASSIGNEE UNDER 37 C.F.R./3.73(B)  
FOR CORRECTION OF INVENTORSHIP

Dear Sir:

Attached please find a copy of the Recordation of Assignment document that is currently on file with the U.S. Patent and Trademark Office concerning the above noted application. The Assignment document is being submitted to provide evidence of chain of title for this application.

Assignee, Network ICE Corporation., a California corporation having a place of business at 2121 South El Camino Real, Suite 1100, San Mateo, California 94403, does hereby assent to the correction of inventorship, the petition for which is filed herewith, which seeks to add Peter Kavaler as an additional inventor in the above-referenced application. The undersigned, Clinton Lum, does declare, under penalty of perjury, that he is authorized by Network ICE Corporation to make this Assent of Assignee for Correction of Inventorship.

Respectfully submitted,

Dated:

7/1/01

Clinton Lum



Attorney's Docket No.: 03245P003

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DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below, next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

A SYSTEM AND METHOD FOR PREVENTING NETWORK MISUSE

the specification of which

X is attached hereto.  
was filed on (MM/DD/YYYY) 06/04/2001 as  
United States Application Number 09/874,574  
or PCT International Application Number \_\_\_\_\_  
and was amended on (MM/DD/YYYY) \_\_\_\_\_  
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred to above.

I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d), of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

<u>Prior Foreign Application(s)</u>			<u>Priority Claimed</u>
Number	Country	(Foreign Filing Date - MM/DD/YYYY)	Yes      No
Number	Country	(Foreign Filing Date - MM/DD/YYYY)	Yes      No
Number	Country	(Foreign Filing Date - MM/DD/YYYY)	Yes      No

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below:

Application Number	(Filing Date – MM/DD/YYYY)
Application Number	(Filing Date – MM/DD/YYYY)

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number (Filing Date – MM/DD/YYYY) Status -- patented, pending, abandoned

Application Number (Filing Date – MM/DD/YYYY) Status -- patented, pending, abandoned

I hereby appoint the persons listed on Appendix A hereto (which is incorporated by reference and a part of this document) as my respective patent attorneys and patent agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.

Send correspondence to Thomas C. Webster, BLAKELY, SOKOLOFF, TAYLOR & (Name of Attorney or Agent)  
ZAFMAN LLP, 12400 Wilshire Boulevard 7th Floor, Los Angeles, California 90025 and direct telephone calls to Thomas C. Webster, (408) 720-8300. (Name of Attorney or Agent)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole/First Inventor Robert David Graham

Inventor's Signature R. D. Graham Date June 26, 2001

Residence Menlo Park, California (City, State) Citizenship U.S.A. (Country)

Post Office Address 350 Sharon Park Drive, #H303  
Menlo Park, California 94025

Full Name of Second Inventor Peter Kavaler

Inventor's Signature Peter Kavaler Date June 26, 2001

Residence Castro Valley, California (City, State) Citizenship U.S.A. (Country)

Post Office Address 18679 West Cavendish Drive  
Castro Valley, California 94552

APPENDIX A

William E. Alford, Reg. No. 37,764; Farzad E. Amini, Reg. No. 42,261; William Thomas Babbitt, Reg. No. 39,591; Carol F. Barry, Reg. No. 41,600; Jordan Michael Becker, Reg. No. 39,602; Lisa N. Benado, Reg. No. 39,995; Bradley J. Bereznak, Reg. No. 33,474; Michael A. Bernadicou, Reg. No. 35,934; Roger W. Blakely, Jr., Reg. No. 25,831; R. Alan Burnett, Reg. No. 46,149; Gregory D. Caldwell, Reg. No. 39,926; Thomas M. Coester, Reg. No. 39,637; Donna Jo Coningsby, Reg. No. 41,684; Florin Corie, Reg. No. 46,244; Mimi Diemmy Dao, Reg. No. 45,628; Dennis M. deGuzman, Reg. No. 41,702; Stephen M. De Klerk, Reg. No. 46,503; Michael Anthony DeSanctis, Reg. No. 39,957; Daniel M. De Vos, Reg. No. 37,813; Justin M. Dillon, Reg. No. 42,486; Sanjeet Dutta, Reg. No. 46,145; Matthew C. Fagan, Reg. No. 37,542; Tarek N. Fahmi, Reg. No. 41,402; Thomas S. Ferrill, Reg. No. 42,532; George Fountain, Reg. No. 37,374; James Y. Go, Reg. No. 40,621; James A. Henry, Reg. No. 41,064; Libby N. Ho, Reg. No. 46,774; Willmore F. Holbrow III, Reg. No. 41,845; Sheryl Sue Holloway, Reg. No. 37,850; George W Hoover II, Reg. No. 32,992; Eric S. Hyman, Reg. No. 30,139; William W. Kidd, Reg. No. 31,772; Sang Hui Kim, Reg. No. 40,450; Walter T. Kim, Reg. No. 42,731; Eric T. King, Reg. No. 44,188; George Brian Leavell, Reg. No. 45,436; Kurt P. Leyendecker, Reg. No. 42,799; Gordon R. Lindeen III, Reg. No. 33,192; Jan Carol Little, Reg. No. 41,181; Robert G. Litts, Reg. No. 46,876; Julio Loza, Reg. No. P47,758; Joseph Lutz, Reg. No. 43,765; Michael J. Mallie, Reg. No. 36,591; Andre L. Marais, Reg. No. P048,095; Paul A. Mendonsa, Reg. No. 42,879; Clive D. Menezes, Reg. No. 45,493; Chun M. Ng, Reg. No. 36,878; Thien T. Nguyen, Reg. No. 43,835; Thinh V. Nguyen, Reg. No. 42,034; Robert B. O'Rourke, Reg. No. 46,972; Daniel E. Ovanezian, Reg. No. 41,236; Kenneth B. Paley, Reg. No. 38,989; Gregg A. Peacock, Reg. No. 45,001; Marina Portnova, Reg. No. 45,750; William F. Ryann, Reg. 44,313; James H. Salter, Reg. No. 35,668; William W. Schaal, Reg. No. 39,018; James C. Scheller, Reg. No. 31,195; Jeffrey S. Schubert, Reg. No. 43,098; George Simion, Reg. No. P47,089; Maria McCormack Sobrino, Reg. No. 31,639; Stanley W. Sokoloff, Reg. No. 25,128; Judith A. Szepesi, Reg. No. 39,393; Edwin H. Taylor, Reg. No. 25,129; John F. Travis, Reg. No. 43,203; Joseph A. Twarowski, Reg. No. 42,191; Mark C. Van Ness, Reg. No. 39,865; Tom Van Zandt, Reg. No. 43,219; Brent E. Vecchia, Reg. No. P48,011; Lester J. Vincent, Reg. No. 31,460; Archana B. Vittal, Reg. No. 45,182; Glenn E. Von Tersch, Reg. No. 41,364; John Patrick Ward, Reg. No. 40,216; Mark L. Watson, Reg. No. 46,322; Thomas C. Webster, Reg. No. 46,154; and Norman Zafman, Reg. No. 26,250; my patent attorneys, and Firasat Ali, Reg. No. 45,715; and Raul Martinez, Reg. No. 46,904, my patent agents, of BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP, with offices located at 12400 Wilshire Boulevard, 7th Floor, Los Angeles, California 90025, telephone (310) 207-3800, and James R. Thein, Reg. No. 31,710, my patent attorney with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.

## APPENDIX B

### Title 37, Code of Federal Regulations, Section 1.56 Duty to Disclose Information Material to Patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) Prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.